

Remarks

The present paper is filed contemporaneously with a Request for Continuing Examination and will serve as the Submission required by 37 C.F.R § 114(c). Filing of the Request with a Petition for Extension of Time of four months, the fee for which is paid herewith via EFS-Web, will withdraw the Appeal filed June 6, 2011.

By the present paper, no claims are amended and no claims are cancelled. A Declaration under 37 C.F.R. § 1.132 by Ruslan Semechkin, Ph.D. is filed herewith.

Entry of the Request for Continuing Examination and reconsideration of the Application in view of the following remarks and the Semechkin Declaration are respectfully requested.

Claim Rejections Under 35 U.S.C. § 103

Claims 1, 3, and 7 - 13 were finally rejected as allegedly obvious over Naughton, United States Patent 6,372,494 ("the '494 patent") in view of Xu et al., United States Patent Application Publication 2002/0022268 ("the '268 Publication"). Applicants respectfully traverse.

For the reasons already of record, Applicants again respectfully disagree with the Office's characterization of what the '494 patent would have actually taught or suggested to the skilled artisan. A specification must be read in its entirety as it would have been read by the skilled artisan of the day. Isolated statements should not be read out of the context of the entire specification. For purposes of the present traversal only, Applicants adopt, arguendo, the Office's interpretation of the "and/or" language in the '494 Patent. But even adopting the Office's interpretation, Applicants' claims are not obvious over the applied art because, as discussed below, the Office's conclusion based on this interpretation is wrong.

Applicants were the first to surprisingly discover that compositions containing a combination of two separately obtained "conditioned media" – one obtained by culturing embryonic stem cells without fibroblast (stromal) feeder cells, the other obtained by culturing a specific type of stromal cell, fibroblasts, in the absence of any other type of cell – are useful in topical skin care products (for example anti-wrinkle compositions). The Office does not accept that combined conditioned media from separately culturing

two distinct types of cells is different from conditioned medium obtained by culturing the same distinct cell types together.

As Applicants best understand the Office's position, the Office alleges that, because the '494 Patent teaches cell culture media in a vehicle (bandage) and because the '494 Patent (allegedly) teaches culturing stem cells and feeder cells either together or alone, the skilled artisan would have expected that conditioned medium obtained by culturing stem cells on feeder cells would be the same as conditioned medium obtained by combining medium from culturing stem cells alone (feeder-free) with medium from culturing feeder cells alone. Experimental results show that this expectation would have been unfounded.

The Semechkin Declaration and attachments thereto show that, contrary to the alleged expectations of the skilled artisan, the conditioned medium obtained by combining conditioned media from separately culturing embryonic stem cells (2p and 12ph hpSCs) and feeder cells (NHDF), denoted "CM from parthenotes (2p & 12ph) + CM from fibroblasts", is substantially different from the conditioned medium obtained from culturing the same embryonic stem cells on the same NHDF feeder cells together.

For example, the combined separately-conditioned media, (CM from parthenotes (2p & 12ph) + CM from fibroblasts), has a higher concentration various growth factors compared to conditioned medium obtained from co-culturing the same cells (CM from parthenotes (2p & 12ph) cultivated on fibroblasts). Concentrations of FGF2 (bFGF), KGF and HGF are from 18% to 33% higher in "CM from parthenotes (2p & 12ph) + CM from fibroblasts", and the concentration of PDGF is about 85% higher in "CM from parthenotes (2p & 12ph) + CM from fibroblasts" than in "CM from parthenotes (2p & 12ph) cultivated on fibroblasts".

Conclusion

Based on the foregoing amendments and remarks, Applicants respectfully submit that the claims are now in condition for allowance, which allowance is earnestly solicited. If, in the opinion of the Examiner, a telephone conference would advance prosecution of the Application, the Examiner is invited to telephone the undersigned attorney.

Dated: November 23, 2011

Respectfully submitted,

Louis C. Paul & Associates, PLLC



Louis C. Paul (Reg. No. 53,442)

150 East 58th Street, 34th Floor
New York, NY 10155
Tel – 212.223.8200
Fax – 212.223.8200
patents@cosmeticslaw.com